

REMARKS

This application has been carefully reviewed in light of the Office Action mailed December 8, 1998 (Paper No. 5). Claims 1-21 were originally pending in this application. To advance prosecution of this case, Applicant has amended Claims 1, 5-6, 10, 12, and 21 to more particularly point out and more distinctly claims various inventive concepts. Applicant respectfully requests reconsideration and favorable action in this case.

Election/Restriction

Applicant affirms the provisional election of Claims 1-16 and 21 (Group I) to prosecute in this application.

Section 102 Rejections

The Examiner rejects Claims 1-14 and 21 under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 5,413,499 to Wright, et al. ("*Wright*").

Wright discloses a battery holder that includes a drawer positioned within a housing. Fixed to the drawer near its sides are two short cylindrical hinge pins that extend outwardly from the drawer. (Column 4, Lines 8-14) Two sets of hinge pin covers and hinge pin retainers are fixed to the housing and have flat surfaces that cooperate to retain the extended portions of the two cylindrical hinge pins. (Column 5, Lines 11-28 and 52-60) The drawer receives a battery and positions the positive and negative terminals of the battery using two apertures that each receive only a corresponding positive or negative terminal.

Wright does not disclose, teach, or suggest the features and operation recited in independent Claims 1, 10, and 21 of this application, as amended. Accordingly, Applicant respectfully requests reconsideration and the allowance of Claims 1, 10, and 21, together with those claims that depend on Claims 1, 10, and 21.

First, *Wright* does not disclose, teach, or suggest a post locator "comprising *an inclined ledge that extends across at least a portion of the battery compartment* for aligning first and second posts of the battery with the first and second contacts," as recited in Claim 1, as amended. Nor does *Wright* disclose, teach, or suggest means for aligning "comprising *an*

inclined ledge extending across a substantial portion of the battery holding means and defining a first region adapted to receive the first post and a second region adapted to receive the second post, the first region being narrower than the second region and too narrow to receive the second post," as recited in Claim 21, as amended. In contrast, *Wright* discloses only two apertures that each receive only a corresponding positive or negative terminal. Furthermore, *Wright* contains no teaching or suggestion of any kind to modify the disclosed structure to incorporate anything other than two differently sized apertures to properly position the terminals. Therefore, Claims 1 and 21 are patentably distinct from *Wright*, whether *Wright* is taken alone or in combination with any other cited reference. Accordingly, Applicant respectfully requests reconsideration and the allowance of Claims 1 and 21, together with those claims that depend on Claims 1 and 21.

Second, *Wright* fails to disclose, teach, or suggest "*a concave hinge lip extending substantially across the door*" and "*a hinge edge extending substantially across the battery compartment*, the hinge lip being pivotally coupled to the hinge edge *between the hinge edge and an interior of the battery compartment* for selectively providing access to the interior of the battery compartment when the hinge lip is selectively pivoted about the hinge edge," as recited in Claim 10, as amended. Similarly, *Wright* fails to disclose, teach, or suggest "*a concave hinge lip and a hinge edge that each extend substantially across the battery holding means*, the hinge lip being pivotally coupled to the hinge edge *between the hinge edge and the interior of the battery holding means* to provide access to the interior of the battery holding means when the hinge lip is selectively pivoted about the hinge edge to place the selective access means in the open position," as recited in Claim 21, as amended.

In contrast, *Wright* discloses only two sets of hinge pin covers and hinge pin retainers that are fixed to the housing and have flat surfaces that cooperate to retain extended portions of two short cylindrical hinge pins fixed to the drawer near its sides. (Column 4, Lines 8-14; Column 5, Lines 11-28 and 52-60) The hinge pins fixed to the drawer in *Wright* are cylindrical rather than concave like the recited hinge lip and extend outwardly from the drawer away from the housing rather than substantially across the battery compartment like the recited hinge lip. Furthermore, the hinge pin covers and retainers fixed to the housing in *Wright* project

perpendicular to the axis of the hinge pins rather than substantially across the battery compartment like the recited in hinge edge. Moreover, none of the hinge pin, hinge pin cover, or hinge pin retainer components in *Wright* are pivotally coupled to any other such component between the other component and an interior of the housing or drawer that may be selectively accessed as in the claimed invention.

For at least these reasons, Claims 10 and 21 are patentably distinguishable from *Wright*, whether *Wright* is taken alone or in combination with any other cited reference. Claim 21 is also allowable for the entirely separate reasons discussed above in connection with Claim 1. Accordingly, Applicant respectfully requests reconsideration and the allowance of Claims 10 and 21, together with those claims that depend on Claims 10 and 21.

Claim 12 does not appear to have been directly addressed in the Office Action. Claim 12, as amended, depends on Claim 10 and further recites "an *inclined ledge extending substantially across the battery compartment* for aligning a first positive post with a first contact and for aligning a second negative post with a second contact, the ledge *defining a first region adapted to receive the first positive post and a second region adapted to receive the second negative post, the first region being narrower than the second region and too narrow to receive the second negative post.*" Nowhere does *Wright* disclose, teach, or suggest these limitations, whether considered alone or in combination with any other cited reference. As discussed above, *Wright* discloses only two apertures that each receive only a corresponding positive or negative terminal and contains no teaching or suggestion of any kind to modify the disclosed structure to meet the limitations of Claim 12. Therefore, since Claim 12 depends on Claim 10, which Applicant has shown above to be allowable, and also because Claim 12 is patentably distinct from the prior art in its own right, Applicant respectfully requests reconsideration and the allowance of Claim 12.

Section 103 Rejections

The Examiner rejects Claims 10 and 14-16 under 35 U.S.C. § 103(a) as being unpatentable over *Wright*.

The fact that a prior art device could be modified to produce the claimed device is not a basis for an obviousness rejection unless the prior art suggests the desirability of such a modification. *In re Gordon*, 733 F.2d 900, 221 USPQ 1125 (Fed. Cir. 1984). Focusing on the obviousness of substitutions and differences, instead of on the invention as a whole, is a legally improper way to simplify the often difficult determination of obviousness. *Gillette Co. v. S.C. Johnson & Son, Inc.*, 919 F.2d 720, 16 USPQ 1923 (Fed. Cir. 1990).

Furthermore, according to the M.P.E.P.:

To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations.

The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, not in applicant's disclosure. *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991).

M.P.E.P. § 2143.

The rejection of Claim 10 is improper when viewed against this legal backdrop. For the reasons discussed above, *Wright* does not teach or suggest every limitation recited in Claim 10, as amended, whether *Wright* is taken alone or in combination with any other cited reference. Nor does *Wright* in any way suggest the desirability of modifying the drawer and its hinge pins while simultaneously modifying the housing and its hinge pin covers and hinge pin retainers to meet the limitations recited in Claim 10, as amended, even if such modifications were possible. Accordingly, since *Wright* does not anticipate or make obvious the limitations recited in Claim 10, as amended, Applicant respectfully requests reconsideration and the allowance of Claim 10, together with those Claims that depend on Claim 10.

CONCLUSION

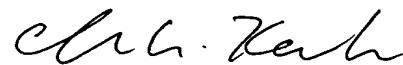
Applicant has made an earnest effort to place this case in condition for allowance. For the foregoing reasons, and for other reasons clearly apparent, Applicant respectfully requests reconsideration and full allowance of all pending claims.

If there are matters which can be discussed over the telephone to advance the prosecution of this application, Applicant respectfully requests the Examiner to call his attorney at the number listed below.

Although Applicant believes that no fees are due, the Commissioner is hereby authorized to charge any additional fees or credit any overpayment to Deposit Account No. 02-0384 of Baker & Botts, L.L.P.

Respectfully submitted,

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